

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

PAMELA J. JUSTUS,	)	
	)	
Plaintiff,	)	
	)	CIV. NO. 3:11-CV-148
	)	(PHILLIPS/SHIRLEY)
v.	)	
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

ORDER OF REMAND UNDER SENTENCE FOUR  
OF 42 U.S.C. § 405(g)

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the Commissioner's decision with remand in Social Security actions under sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), and in light of the parties' motion to remand this action, this Court now, upon substantive review, hereby enters a judgment under sentence four of 42 U.S.C. § 405(g) reversing the Commissioner's decision with a remand of the cause to the Commissioner according to the following terms. See Shalala v. Schaefer, 509 U.S. 292, 296, 113 S. Ct. 2625, 2629 (1993); Melkonyan v. Sullivan, 501 U.S. 89, 97-98, 111 S. Ct. 2157, 2163 (1991).

The parties have informed the Court that Plaintiff has filed a subsequent application for benefits, which is not the subject of this lawsuit. That claim was recently denied by the State Agency.

The Court is in agreement with the parties that the instant case should be remanded, pursuant to sentence four of 42 U.S.C. § 405(g), and jurisdiction of this case returned to the Agency. Upon remand, evidence obtained in connection with Plaintiff's subsequent application will be considered in evaluating the entire period at issue. Plaintiff's claims will thereby be consolidated for review and administrative adjudication. On remand, the Appeals Council will direct the ALJ to further consider Plaintiff's residual functional capacity and explain specific weight given to the medical source opinions. Where the ALJ's RFC finding is not consistent with a medical source opinion, the ALJ will explain his reasons for not adopting similar restrictions, particularly if he has given weight to the opinion. The ALJ will also obtain testimony from a vocational expert that considers what jobs Plaintiff could perform with her given residual functional capacity. The ALJ will then issue a new decision on the consolidated record and combined claims.

The Clerk of the Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

*Thomas H. Phillips*

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U. S. District Judge

Proposed by:

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